

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	
	)	Case No. 02-B02474
KMART CORPORATION, <u>et al.</u> ,	)	(Jointly Administered)
	)	Chapter 11
Debtors.	)	Hon. Susan Pierson Sonderby

**THIRD AMENDED AND RESTATED ORDER PURSUANT TO  
11 U.S.C. §§ 102 AND 105(a), BANKRUPTCY RULES 2002(m) AND  
9007, AND LOCAL RULES ESTABLISHING OMNIBUS HEARING DATES  
AND CERTAIN NOTICE, CASE MANAGEMENT AND  
ADMINISTRATIVE PROCEDURES**

Upon the Motion of Kmart Corporation ("Kmart") to amend that Second Amended and Restated Order pursuant to 11 U.S.C. §§ 102 and 105(a), Bankruptcy Rules 2002(m) and 9007, and Local Rules 104, 400 and 402 establishing Omnibus Hearing Dates and certain Notice, Case Management and Administrative Procedures (the "Second Case Management Orders") and it appearing to the Court that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interests of Kmart and its creditors; (iv) proper and adequate notice of the Motion and the hearing thereon has been given and that no other or further notice is necessary; and (v) upon the record herein, after due deliberation thereon, that the relief should be granted as set forth below,

A. Monthly Omnibus hearing Dates

1. The Court shall conduct the following omnibus hearings in these cases (the "Omnibus Hearing Dates"):

~~September 23, 2003 at 10:00 a.m. (Central Time);~~

October 28, 2003 at 10:00 a.m. (Central Time);

November 18, 2003 at 10:00 a.m. (Central Time);

~~December 1, 2003;~~

January 13, 2004; at 10:00 a.m. (Central Time)

February 10, 2004; ~~and~~ at 10:00 a.m. (Central Time)

March 9, 2004 at 10:00 a.m. (Central Time)

2. Omnibus Hearing Dates will occur thereafter as maybe scheduled by the Court.

All matters requiring a hearing in these cases shall be set for and be heard on Omnibus Hearing Dates unless alternative hearing dates are approved by the Court for good cause shown.

B. Notice Procedures

3. Every filing made with the Court in these cases ("Filings") shall be subject to the Notice Procedures described herein. All Filings shall be filed with the Court in accordance with the Local Rules (as amended effective June 1, 2003). All Filings shall be served on any entity with a particularized pecuniary/economic interest in the subject of the specific Filing. All motions, pleadings, or other Filings seeking affirmative relief ("Motions") shall also be served upon the following list (the "Master Service List") of parties or entities:

Kmart Corporation  
Attn. Eric S. Meier, Alan Gocha  
3100 West Big Beaver Road  
Troy, MI 48084  
Facsimile No. 248-637-4857  
E-mail: EMeier@kmart.com  
E-Mail: AGocha@kmart.com

Wilmer Cutler & Pickering  
Attn. Andrew Goldman, Jorian Rose, Jeffrey Gleit  
399 Park Ave.  
New York, NY 10022  
Facsimile No. 212-230-8888  
Email: andrew.goldman@wilmer.com  
Email: jorian.rose@wilmer.com  
Email: jeffrey.gleit@wilmer.com

Barack Ferrazzano Kirschbaum Perlman &  
Nagelberg LLC  
Attn. William Barrett, Gillian Munitz  
333 West Wacker Dr., Suite 2700  
Chicago, IL 60606  
Facsimile No. 312-984-3150  
Email: William.barrett@bfkpn.com  
Email: Gillian.munitz@bfkpn.com

Otterbourg Steindler Houston & Rosen P.C.  
Attn. Glenn B. Rice, Scott L. Hazan, Jennifer S.  
Feeney  
230 Park Avenue, 29<sup>th</sup> Flr.  
New York, NY 10169  
Facsimile No. 212-558-5700  
Email grice@oshr.com  
Email jfeeney@oshr.com

Weil Gotshal & Manges LLP  
Attn. Gary T. Holtzer  
767 Fifth Avenue  
New York, NY 10153  
Facsimile No. 212-310-8007  
Email gary.holtzer@weil.com

Office of the United States Trustee  
Attn. Kathryn Gleason  
227 West Monroe, Suite 3350  
Chicago, IL 60606  
Facsimile No. 312-886-5794  
Email Kathryn.M.Gleason@usdoj.gov

Winston & Strawn  
Attn. Matthew J. Botica, David W. Wirt  
35 West Wacker Dr., 40<sup>th</sup> Flr.  
Chicago, IL 60601  
Facsimile No. 312-558-5700  
Email mbotica@winston.com

Kaye Scholer LLP  
Attn. Sheldon L. Solow, Mindy D. Cohn  
Threc First National Plaza  
70 West Madison St., Suite 4100  
Chicago, IL 60602  
Facsimile No. 312-583-2360  
Email ssolow@kayescholer.com

All other parties appearing on the Master Service  
List at the time of the Filing.

The Official Copy Service, as provided in and  
subject to, Section 21 below.

4. Parties may be added or deleted from the Master Service List upon written request for good and sufficient cause, in accordance with the procedures set forth in this Order.

5. All initial Filings, complaints and other pleadings filed in any adversary proceeding commenced in these cases (the "Adversary Pleadings") shall be served on Kmart and its counsel, as well as any parties required to be served under any applicable Bankruptcy Rule or Local Rule, in the manner provided by the Bankruptcy Rules that govern adversary proceedings. Subsequent Adversary Pleadings shall be served on parties to the underlying adversary proceeding, in the manner provided by the Bankruptcy Rules that govern adversary proceedings.

6. With respect to all Filings for which particular notices are required by Bankruptcy Rules 2002(a)(2) and (3), 4001, 6004, 6006, 6007 or 9019, parties shall serve all such Filings on the Master Service List and also in accordance with the following procedures, unless otherwise authorized by the Court:

(a) Filings relating to approval of proposed compromises or settlements shall be served on any entity that is a party to the compromise or settlement or which may be directly adversely affected in a specified, pecuniary/economic way by that particular settlement;

(b) Filings relating to rights under section 365 of the Bankruptcy Code shall be served on each party to the executory contract(s) or unexpired lease(s) at issue; and

(c) Notice of other matters for which the Bankruptcy Rules specifically require notice to all parties-in-interest shall be served on all creditors and equity security holders of Kmart and parties-in-interest, except as set forth herein or as otherwise authorized by this Court.

7. Any entity submitting a Motion shall serve a notice of such Motion on all 2002 List Parties (defined below). Such notice shall include the title of the Filing and the time and date of any objection deadline and the Omnibus Hearing or other hearing date as ordered by the Court at which the Court will consider the Filing (the "Applicable Hearing Date"). Nothing shall prejudice (i) the rights of any party in interest to move the Court to further limit or expand notice of such matters and proceedings upon a showing of good cause, including, but not limited to, the right to file a motion seeking emergency ex parte consideration or consideration upon shortened time; or (ii) the rights of any party to seek an enlargement or reduction of a time period under Bankruptcy Rule 9006(b) or (c).

8. All Notice Requests, whether now filed or filed in the future, for automatic receipt of copies of Filings, Responses, Adversary Pleadings and other documents or writings filed in these cases and any adversary proceeding will be denied except as set forth herein or in the July 15, 2003 Order.

9. Parties who file notices of appearance and who desire to be added to the Master Service List should make a written request to that effect to Kmart in accordance with the July 15, 2003 Order.

10. For any Motion, the objection deadline shall be (a) the seventh (7<sup>th</sup>) calendar date before the Applicable Hearing Date if the Motion is filed and served at least twenty (20) days prior to the Applicable Hearing Date ("Twenty-Day Filings"); (b) the fifth (5<sup>th</sup>) calendar date before the Applicable Hearing Date if the Motion is filed and served less than twenty (20) but at least fourteen (14) days prior to the Applicable Hearing Date ("Fourteen Day Filings"); or (c) otherwise as ordered by the Court. All objections will be served on chambers in hard copy form.

11. The relief requested in the Motion may be granted without a hearing if no objection is timely filed.

12. In the event that a Filing is a reply (a "Reply") to an objection to a Twenty Day Filing, such Reply shall be filed and served so as to be received by the Court, Kmart and affected parties by Noon (Central Time) on the second business day prior to the Applicable Hearing Date that is an Omnibus Hearing Date. In the event that a Filing is a Reply to an objection to a Fourteen Day Filing, such Reply shall be filed and served so as to be received by the Court, Kmart and affected parties by Noon (Central Time) on the business day prior to the Applicable Hearing Date that is an Omnibus Hearing Date. In the event that a Filing is an omnibus reply (an "Omnibus Reply") to multiple objections, such Omnibus Reply shall be filed and served so as to be received by the Court, Kmart and affected parties by Noon (Central Time) on the business day prior to the Applicable Hearing Date that is an Omnibus Hearing Date.

13. Method of service:

- any Motion filed 20 or more days in advance of the hearing on the Motion shall be served by regular mail on all parties on the Master Service List. Notice of the Motion shall be served by regular mail on all parties and the 2002 List;
- any Motion filed 14 or more, but less than 20, days in advance of the hearing on the Motion shall be served by overnight mail on all parties on the Master Service List. Notice of the Motion shall be served by regular mail on all parties and the 2002 List;
- any Motion filed less than 14 days in advance of the hearing on the Motion shall be served by overnight mail on all parties on the Master Service List. Notice of the Motion shall be served by overnight mail on all parties and the 2002 List;
- any Filing may be served by electronic mail, provided that (i) all Filings (including Motions and Replies) shall be served on Kmart as provided in this Section above and (ii) all Filings that affect the rights or interests of a particular person shall be served on such person as provided in this Section above.

The "2002 List" is the list maintained by Kmart of parties requesting notice of all Filings, other than parties appearing on the Master Service List.

14. All objections or responses to or statements in support of Filings as well as any replies thereto (collectively "Responses") need only be served on counsel who served such Filings, Kmart, Kmart's counsel and on chambers, provided that all such Responses shall be served so as to be actually received by such parties by the applicable objection deadline.

15. If any person makes any Filing in contravention of this Order by, among other things, setting a hearing on such Filing for a date and time other than an Omnibus Hearing Date without an order from this Court authorizing such hearing for cause, Kmart shall forward a copy of the Procedures Order to such person within three (3) business days after receipt. If such Filing is filed at least twenty (20) days prior to the next Omnibus Hearing Date, then the hearing with respect to such Filing shall be deemed to be on such Omnibus Hearing Date. If such Filing is filed less than twenty (20) days prior to the next Omnibus Hearing Date, then the hearing with

respect to such Filing shall be the next Omnibus Hearing Date thereafter. The Court may *sua sponte* deny or adjourn any such Filing made in contravention of this Order.

16. Pursuant to Bankruptcy Rule 9014, and except as provided in Section 18 below, in the event that an objection is made to a Motion or application for relief, then the hearing on such filing shall be an evidentiary hearing at which witnesses may testify, unless Kmart's proposed agenda provides otherwise. Any party that intends to introduce evidence or witnesses with respect to a matter that is the subject of a timely objection shall identify with reasonable particularity its proposed evidence and witnesses. Such party shall identify its proposed evidence and witnesses in a written disclosure, (a) with respect to a Twenty-Day Filing, within two (2) business days after the objection deadline and, (b) with respect to a Fourteen-Day Filing, within one (1) business day after the objection deadline. No evidentiary hearings shall be conducted on Omnibus Hearing Dates.

17. Any document identifying such evidence and witnesses shall be served on any opposing party, Kmart's counsel, and on chambers. Any party that fails to identify its evidence or witnesses as provided for herein may be precluded from presenting such evidence or witnesses at the hearing on the matter. Nothing shall preclude any party from presenting proffers in connection with uncontested matters, or agreeing with an opposing party to present proffers in any contested matter in lieu of the direct testimony of any witness or otherwise stipulating to facts or documentary evidence.

18. The initial hearing on any omnibus objection to claims (including general unsecured claims, cure claims, or administrative claims) (a "Claim Objection") shall be a status hearing only, provided that Kmart may seek at such hearing relief as to any claim that was subject to the objection and for which the claimant made no timely response. No person that

responds to a Claim Objection shall be required to provide the disclosures described in Section 17 in advance of any status hearing on the Claim Objection. At any status conference on a Claim Objection, Kmart or the respondent may request an evidentiary hearing on the Claim Objection, which shall be set by the Court for an off-omnibus date.

19. Kmart shall describe the status of contested evidentiary hearings on dates to be provided by chambers.

C. Monthly Off-Omnibus Hearing Dates for Claims Objections

20. The Court shall conduct "off-omnibus" hearings on dates to be provided by chambers.

D. Official Copy Service

21. Landmark Document Services, 308 West Randolph, Suite 500, Chicago, IL 60606, tel: (312) 845-1000, fax: (312) 726-9027 is designated the Official Copy Service. Any entity, including Kmart, submitting any Filing, Response, Adversary Pleadings or other notices or documents to the Court shall also, on the day such document is submitted with the Court, provide one copy thereof to the Official Copy Service. The Official Copy Service shall monitor the docket in these cases and coordinate with Kmart's counsel to ensure that they have copies of all documents filed in these cases.

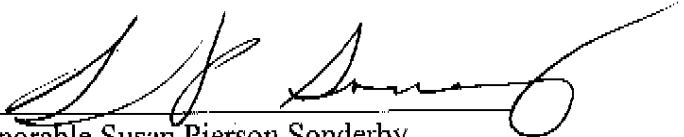
22. The Official Copy Service will maintain (or have access to) a complete set of all Motions filed in these cases henceforth. Copies of responses to claim and/or cure objections need not be sent to the Official Copy Service. Upon request of any person, the Official Copy Service will supply a copy of any designated document, at a cost to be paid by the person requesting it at the prevailing fee being charged by the Official Copy Service. Any party that desires copies of



every document filed in these cases may obtain such documents at its own expense by arrangement with the Official Copy Service.

23. The Court may conduct case status conferences pursuant to 11 U.S.C. § 105 to review these matters from time to time with representatives of Kmart, the United States Trustee, and the Clerk of the Bankruptcy Court.

Dated: Chicago, Illinois  
September 27, 2003

  
Honorable Susan Pierson Sonderby  
UNITED STATES BANKRUPTCY JUDGE